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CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 18th March 2024

No. 13/2/93-HII(2)-2024/4435.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **35/2020** dated **12.01.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

LAL PARSAD, H.NO.22, RAIPUR KHURD, CHANDIGARH. (Workman)

AND

AMANPLAST INDUSTRIES (INDIA), PLOT NO.449-A, INDUSTRIAL AREA, PHASE - II, CHANDIGARH THROUGH ITS PROPRIETOR/PARTNER. (Management)

AWARD

1. Lal Parsad, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that on 01.08.1997 the workman was appointed as Operator by the management. The workman remained in the uninterrupted employment of the management up to 29.08.2019 when his services were illegally and wrongfully terminated by refusing of work. At the time of termination, the workman was drawing ₹ 12,700/- as consolidated wages. The workman is an ESI insured person and has been allotted IP No.1707396839. On 30.08.2019 as usual the workman went to attend his normal duty but he was refused work by the management without assigning any reason and notice. Refusal of work which amounts to termination is 'retrenchment' under Section 2(oo) of the ID Act. The management has also violated Section 25F of the ID Act as no charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. The management has also violated Section 25G of the ID Act. For his reinstatement the workman served upon the management a demand notice dated 01.09.2019. The management neither replied the demand notice nor took the workman back on duty. The Conciliation Officer, U.T. Chandigarh was requested for his intervention. The Conciliation Officer intervened but no settlement could be made possible during the stipulated time. Termination is illegal, wrongful, motivated, against the principles of natural justice and unfair labour practice. The management has also withheld the wages of the workman for the month of July and August, 2019. The workman remained unemployed from the date of termination to till date. Prayer is made that the workman may be reinstated with full back wages, with continuity of service and with all attendant benefits.

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3. On notice, the management appeared through its authorized representative and contested the claim statement by filing written statement, wherein it is submitted that the written submissions are being filed by the management without prejudice to the management's application for dismissal / return of claim filed before this Hon'ble Commission. The present written statement is being filed on behalf of the management in response to the malicious, unfounded and un-maintainable application filed by the applicant-workman allegedly seeking redressal against his alleged unlawful retrenchment from the management's place of work. It is submitted that the workman has misguided this Hon'ble Commission by placing on record incorrect facts and unfounded allegations and that it is the management who has been wronged by the actions of the workman, who has filed these proceedings in an attempt to harass the management and extort money from the management which is a sole proprietorship with a small operation. The submissions herein will establish how the workman via this present claim is trying to take unlawful advantage of his own wrongful conduct and actions. The management is a sole proprietorship, that is managed and run by a female sole proprietor who is approximately 60 years old. The management has a small-scale operation that mainly deals with manufacturing and trading of various pipes and fittings, including but not limited to HDPE pipes, etc. The workman was engaged by the management as a Foreman to manage the workers and supervise their activities on the floor of the premises. He was In-charge of allotting different aspects of the manufacturing work to the workers and getting the work done by giving guidance. He was also In-charge of making random checks in order to ensure that the workers were doing the work properly. He was also In-charge of assigning daily duties to the workers and to allocate duties to them in the event any other team member was absent. It was duty of the workman to ensure maximum utilization of man-power. Throughout the period when the workman was in the services of the management, he continued to be embroiled in illegal activities and malpractices. For instance, multiple times during his engagement, the workman was caught collecting payment from customers but not registering the same in the firm's accounts and rather pocketing the money for himself. In fact, the workman has even acknowledged such instances vide letters provided to the management. This was a constant pattern followed by the workman for which he was reprimanded multiple times. However, since the management's proprietor held a soft spot for the workman's family, he continued his responsibilities. Further, in and around 2017-18, the workman's son fell terminally ill and had to be admitted to the Alchemist hospital in Chandigarh for urgent treatment. It was the management who lent an approximate amount of ₹ 80,000/- to the workman for the said treatment. Records with the workman would reflect that an exorbitant amount was indeed paid to the hospital in lump sum. This money was also advanced to the workman on the assurance that it would be paid back to the management in regular intervals over a period of time. However, after an elapse of certain amount of time, while certain payments were made by the workman, it now seems that the workman had no intentions of making such payment in full. It is perhaps for this reason that suddenly, from the first week of August 2019 itself, the workman decided to refrain from joining work. The entire staff of the management requested via various intermediaries for the workman to return to work but he could not be persuaded. While he initially informed the staff that he was going to settle in his home town and was relocating from Chandigarh but as subsequent events unfolded, it was clear that he had other mala-fide intentions. In fact, as a result of the workman leaving his engagement, the management suffered undue loss and harassment, in that it was not possible to find a replacement for a supervisor in such a short span of time. As such, the management had no alternative but to abruptly cease certain operations that the workman was responsible for and even as on date these operations have not been able to be started. The management is now shocked and surprised to see that the workman has initiated proceedings alleging wrongful termination of his services since it is a matter of fact that it was the workman who refused to return to work and voluntarily decided to abandon his duties. The workman is taking undue advantage of the machinery provided under the ID Act and misguiding this Hon'ble Commission in an attempt to extort money from the management, which has already lost a stream of its operations on account of the workman's refusal to work. The workman immediately assumed services and took employment in another firm, assumably for higher remuneration and has been working in gainful employment ever since. As such, there is no reason for the workman to seek any compensation or back-wages from the management. The allegations of the workman are further unfounded, in that all his dues up until the period he

has provided services, have been paid to him by the management and received by him in his bank account. There is no other due that is payable to the workman and this plea of retrenchment is only a tactic that the workman has employed in order to extract undue benefit from the management and cause undue enrichment to himself.

4. Further, preliminary objections are raised that the present dispute is pre-mature as the applicant-workman has not carried out any conciliation proceedings as mandated under the ID Act or has failed to notify the management of the same. This Hon'ble Commission may direct the parties to engage in conciliation proceedings prior to proceeding ahead with the present proceedings in the interests of justice. The applicant-workman cannot be termed as a 'workman' in terms of the ID Act. The nature of the duties of the applicant-workman, who was engaged as a foreman in the management firm were supervisory wherein he would manage the workers of the firm and regulate their operations. It is settled law that for an employee to be considered a 'workman', he needs to perform any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward in any industry. In the present case, the applicant-workman's duties do not fulfill any of these criteria. As such, the present dispute does not fall within the ambit of the ID Act, this Hon'ble Commission does not have the jurisdiction to entertain the present proceedings. The remuneration payable to the applicant-workman, in his supervisory capabilities, was also quite substantial and above the threshold set out under the ID Act. Since the applicant-workman does not fall within the definition of a 'workman' under the ID Act and as such cannot have the locus to raise the present dispute. The present proceedings have been filed and all the communication has been addressed to the management proprietorship firm. The proprietor of the firm is Mrs. Atulesh Basur, who is aged approx. 60 years and has not been made a party to the present proceedings. It is trite law that proceedings of any kind cannot be initiated against only a proprietorship firm which is a non-entity in law and that the proprietor also needs to be impleaded as a party to the same. Assuming without prejudice that the applicant-workman falls within the definition of 'workman', it is submitted that the proceedings are untenable for being initiated against a non-entity and must be dismissed in limine for this reason. The management's establishment, which is a sole proprietorship does not fall within the meaning of an 'industry' under the terms of the ID Act and therefore this Hon'ble Commission does not have the jurisdiction to decide upon the present dispute.

5. Further objections are raised on the ground that since the applicant-workman chose to voluntary retire from his services and refused to resume work, the consequent events cannot be termed as retrenchment within the meaning of the ID Act. Further, since the applicant-workman himself refused to join work, he cannot be said to be in continuous service in terms of the ID Act and therefore Section 25F of the ID Act would also not apply to the present fact situation. This Hon'ble Commission must exercise its powers and impose costs on the applicant-workman for misguiding this Hon'ble Commission and presenting false and fabricated facts. The conduct of the applicant-workman also shows that he had mala-fide intentions of embroiling the management in unfounded proceedings and chose to not join the duties only in an attempt to cause unjust enrichment to himself. It has come to the knowledge of the management that the applicant-workman has taken up employment in an establishment shortly after his abandonment of work. As such, he is not entitled to any back wages. He has made wrongful and incorrect statements before this Hon'ble Commission, for which penal consequences must follow. It was the applicant-workman, who while working at the premises of the management was not only negligent towards his duties but rather carried out patently illegal and unauthorised activities against the management. The present proceedings are nothing but an attempt by the applicant-workman to harass the management who has already suffered undue loss and harm on account of the applicant-workman's actions and to drag the management through an unnecessary and costly legal proceeding.

6. On merits, it is stated that the applicant-workman was engaged by the management as a Foreman to manage the workers and supervise their activities on the floor of the establishment's premises. It was the applicant-workman who decided to refrain from joining work from the first week of August 2019 and subsequently did not return back to work without providing any notice for the same and for reasons best known to him. The entire staff of the management requested via various intermediaries for the applicant-workman to return to

work but he could not be persuaded. The applicant-workman initially informed the staff that he was going to settle in his home town and was relocating from Chandigarh but as subsequent events unfolded, it was clear that he had other mala-fide intentions. The management did not deny work to the applicant-workman and nor was the applicant-workman illegally terminated as per the applicant-workman's unsubstantiated claims. Therefore, the applicant-workman was not terminated in an illegal, wrongful, or motivated manner and no principles of natural justice were violated or any form of unfair labour practice resorted to, by the management. Rest of the averments of the claim statement are denied. Prayer is made that the claim of the applicant-workman may be dismissed with exemplary costs imposed on the applicant and pass any other order may deem fit.

7. The workman filed replication, wherein the contents of written statement are denied as wrong except the admitted facts of the claim and the averments of the statement of claim are reiterated.

8. From the pleadings of the parties, following issues were framed vide order dated 16.05.2023 :-

1. Whether termination of claimant is illegal, if proved in affirmative, whether the claimant is entitled to reinstatement with continuity of service along with back wages and other consequential benefits ? OPW
2. Whether the claim does not fall within the definition of 'workman' under Section 2(s) of the ID Act ? OPM
3. Whether the management does not fall within the definition of 'industry' under Section 2(j) of the ID Act ? OPM
4. Whether the present claim statement is not maintainable ? OPM
5. Relief.

9. In evidence, workman Lal Parsad examined himself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A'.

10. During the pendency of this case, parties effect compromise. Today, on 12.01.2024 the workman got recorded his statement, which is reproduced as below :-

"I have settled my dispute with the management. I have received the payment of Rs.1,40,000/- in cash from Ld. Representative for the management today in the court towards full satisfaction of the present claim. After receiving the payment nothing is due towards the company as well the management. I will not file any claim whatsoever against the management-company relating to the matter in dispute. The present Industrial Dispute may be disposed off accordingly as settled."

11. His statement is countersigned by his Representative.

12. Heard. In view of the aforesaid statement of the workman, the present industrial dispute is disposed off as settled by way of compromise. In view of the compromise the issues have become redundant and stands decided accordingly. Appropriate Government be informed. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152.

Dated : 12.01.2024.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT**Notification**

The 18th March 2024

No. 13/2/85-HII(2)-2024/4437.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **64/2022** dated **10.01.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

SHIVA S/O RAMESH CHANDER, H.NO.1316, HALLOMAJRA, U.T. CHANDIGARH.
(Workman)

AND

M/S GANPATI PRINT PACK, PLOT NO.43, PHASE - II, INDUSTRIAL AREA, CHANDIGARH
THROUGH ITS PROPRIETOR.

AWARD

1. Shiva, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed by the management as Machine Operator in the month of June, 2019 on consolidated wages of ₹ 20,000/- per month. The workman remained in uninterrupted employment up to 4th December, 2021 when his services were illegally & wrongly terminated by refusing of work. On 04.12.2021, when the workman was working on machine, the management approached him and started misbehaving and abusing him and also started beating him without any complaint & reason. The workman got some injuries on the neck. The management also refused him work without any reason & notice. The management also threatened him to implicate him in false police case. The management has also not paid his wages for the month of October and November, 2021. The workman then lodged a complaint at Police Beat Box, Industrial Area, Phase - II, Chandigarh. The Police took him to G.M.C.H., Sector 32, Chandigarh for medical treatment. The entire medical record is with police persons. Refusal of work, which amounts to termination, is retrenchment under Section 2(o) of the ID Act. The management has also violated Section 25F of the ID Act. No charge sheet was issued, no inquiry was held and the workman was not paid retrenchment compensation at the time of termination. Violation of the same makes the termination void. For his reinstatement, the workman served upon the management a demand notice dated 25.04.2022. The management neither denied the contents of the demand notice nor took the workman back on duty. The Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh was requested for his intervention. The Conciliation Officer intervened but the dispute could not be settled within the stipulated period. Termination is illegal, wrongful, motivated, against the principle of natural justice and unfair labour practice. The workman remained un-employed from the date of termination till date. Prayer is made that the workman may be reinstated with continuity of service, full back wages and without any change in his service condition.

3. On notice the management contested the claim statement by filing written reply in the form of an affidavit wherein preliminary submissions are made to the effect that the applicant (*here-in-after 'claimant'*) has filed the petition before this Hon'ble Court against the respondent-management. As per the petition filed by the claimant, he stated that he was appointed as Machine Operator. In fact Shiva was not working as Machine Operator, however, he was working as Helper on salary of ₹ 15,500/- p.m. It is admitted that claimant was working with the respondent since June 2019. The respondent-management did not ask to leave job to the claimant, however, claimant himself has left the job and even he did not inform about his whereabouts. When the claimant left the job, he caused irreparable loss of labour work to the respondent-management as the respondent-management could not hire another labour immediately. It is denied as wrong that the respondent-management has misbehaved with the claimant. In fact, the claimant is a habitual of taking liquor and smoking

and even under the influence of liquor the claimant has misbehaved many times with the respondent-management and other staff in work place. As per allegation of the claimant, there is no mis-happening took place with the claimant and neither the respondent-management has caused any harm to the claimant. If the claimant is claiming to be threatened or humiliated then the allegations are false and fabricated for the reasons best known to him. The respondent-management has called the claimant many times for clearance of his accounts and salary for the month of November 2021 (18 days worked) and December 2021 (4 days worked) but he denied and rather threatened and demanded ₹ 50,000/- in lump-sum. The claimant did not turn up, despite that the respondent-management has offered him to continue his work but the claimant denied the same and strict to his illegal demand. The respondent-management has not violated any terms and conditions of Section 25F and 2(oo) of the ID Act. The respondent-management has not retrenched or asked to leave to the claimant rather the claimant himself did not come up and caused irreparable loss to the respondent. As per salary structure of the claimant, he is entitled for his salary / wages of ₹ 9,300/- for 18 working days of November 2021 and ₹ 2,066/- for 4 working days of December 2021 which comes to ₹ 11,366/- in total. The respondent-management is still ready and willing to pay his wages. The respondent-management has also appeared before the Assistant Labour Commissioner-cum-Conciliation Officer and offered to the claimant but the claimant has denied taking his salary. Prayer is made that the present petition may be dismissed with costs.

4. Workman filed rejoinder wherein the contents of the written reply are denied as wrong and averments of the claim statement are reiterated.

5. From the pleadings of the parties, following issues were framed vide order dated 12.04.2023 :-

1. Whether the termination of the workman is illegal ? OPW
2. If issue No.1 is proved in affirmative, whether the workman is entitled to reinstatement with continuity of service, full back wages and all other consequential benefits along with interest as prayed for ? OPW
3. Relief.

6. At the stage of workman evidence, the management neither appeared in person nor through its representative nor anyone else appeared on its behalf. Thus, vide order dated 26.10.2023 the management was proceeded against ex-parte.

7. In ex-parte evidence, workman examined himself as AW1 and tendered his affidavit Exhibit 'AW-1/A'. On 14.12.2023 workman closed his ex-parte oral evidence. On 01.01.2024 Learned Representative for the workman closed ex-parte documentary evidence on behalf of the workman.

8. I have heard the arguments of Learned Representative for the workman and perused the judicial file. My issue-wise finding are as below :-

Issues No. 1 & 2 :

9. Both these issues are taken up together being inter-connected and in order to avoid repetition of discussion. Onus to prove both these issues is on the workman.

10. Under these issues, workman Shiva examined himself as his own witness as AW1 and vide his affidavit Exhibit 'AW-1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. On the other hand, there is no evidence of the management as after filing the written reply to the claim statement at the stage of evidence of applicant none appeared on behalf of the management and vide order dated 26.10.2023 the management was proceeded against ex-parte.

11. From the evidence led by the workman, it comes out that the workman was appointed in June 2019 as Machine Operator by the management on consolidated wages of ₹ 20,000/- P.M. The workman has

alleged that he remained in continuous employment with the management up to 04.12.2021 when his services were illegally & wrongfully terminated by the management by refusing of work. The workman has further alleged that on 04.12.2021 when he approached the management, then the management misbehaved and abused him. The workman was also inflicted injuries on his neck and was threatened that he will be implicated in false police case. The management has also not paid his wages for the month of October and November 2021. With regard to the incident dated 04.12.2021, he had lodged a police complaint at Police Beat Box, Industrial Area, Phase-II, Chandigarh and the police has taken him to GMCH, Sector 32, Chandigarh for medical treatment. The entire medical record is with the police persons. The workman has specifically alleged that before terminating his services, he was neither charge-sheeted nor inquiry was held. He was not paid retrenchment compensation at the time of termination. In written reply filed in the shape of an affidavit of Rohit S/o Trilok Chand on behalf of the management, it is stated that the workman was not working as Machine Operator as he was working as Helper on monthly salary of ₹ 15,500/-. The management did not specifically deny the incident dated 04.12.2021, as alleged in Para 2 of the claim statement and has taken counter-plea that the workman was not asked to leave the job but the workman himself left the job without informing about his whereabouts. Besides, workman is habitual of taking liquor and smoking and under the influence of liquor the workman has misbehaved many times with the answering management/deponent. It is further pleaded that the workman was called many times for clearance of his accounts/salary i.e. 18 days salary of November 2021 and 4 days of December 2021 which comes to ₹ 11,366/- but the workman denied the same and rather threatened and demanded ₹ 50,000/- in lump-sum. The management is still ready and willing to pay the amount of ₹ 11,366/- as wages. To my opinion, the plea taken by the management in its written reply does not stand proved as the management has not examined any witness to prove the contents of the written reply. Non-appearance of management in the witness box raises strong presumption against the management. As far as alleged incident dated 04.12.2021 is concerned, though the management has not denied the same specifically but it is for the workman to prove its own case. The workman did not prove into evidence his medical examination report to show any apparent injury to his person. The workman would have summoned the medical record/MLR from G.M.C.H, Sector 32, Chandigarh but the same has not been done. As far as the termination of the services of the workman is concerned, the workman has continuously worked from June 2019 to 04.12.2021, thus, fulfills the requirement of continuous service as defined in Section 25B of the ID Act. Once the workman falls within the definition of Section 25B of the ID Act, the provision of Section 25F of ID stands attracted which lays down certain conditions to be followed by the employer before terminating the services of the workman. For better appreciation Section 25F of the ID Act is reproduced as below :-

"25F. Conditions precedent to retrenchment of workmen. - No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until-

- (a) the workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice;*
- (b) the workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay [for every completed year of continuous service] or any part thereof in excess of six months; and*
- (c) notice in the prescribed manner is served on the appropriate Government [or such authority as may be specified by the appropriate Government by notification in the Official Gazette]."*

12. In the present case, the management has not fulfilled any of the conditions precedent to the

retrenchment of the services of the workman i.e. neither any charge-sheet has been issued nor one month's notice in writing indicating the reasons for retrenchment has been given nor the notice pay has been paid in lieu of the notice period nor any retrenchment compensation has been paid. Consequently, the termination of the services of the workman is illegal being in violation to the provision of Section 25F of the ID Act and is hereby set aside. The workman is entitled to reinstatement with continuity of service, 50% back wages and consequential benefits.

13. Accordingly, both these issues are decided in favour of the workman and against the management.

Relief :

14. In the view of foregoing finding on the issues above, this industrial dispute is ex-parte allowed. The workman is held entitled to reinstatement with continuity of service, 50% back wages and consequential benefits. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till its actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152.

Dated : 10.01.2024.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 18th March 2024

No. 13/2/86-HII(2)-2024/4439.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **98/2020** dated **03.01.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

KOMAL VERMA, AGED ABOUT 24 YEARS, D/O SH. VINOD VERMA, R/O HOUSE NO.1746, DASHMESH NAGAR, NAYAGAON, DISTRICT MOHALI, PUNJAB (Workman)

AND

M/S ZODIAC CLOTHING COMPANY LTD., NYLCO HOUSE 254, D-2, DR. ANNIE BESANT ROAD, WORLI, MUMBAI-400 030.

2ND ADDRESS:- CAPITAL EMPORIUM, SCO NO. 43, GROUND FLOOR, SECTOR 17, CHANDIGARH. (Management)

AWARD

1. Komal Verma, workman has presented industrial dispute under Section 2A(2) of the Industrial Disputes Act, 1947 (*here-in-after in short called 'ID Act'*).

2. Briefly stated the averments of claim statement are that the workman was appointed by the management vide appointment letter dated 05.12.2019. The workman joined the service on 09.12.2019 as Customer Service Associate in the store. The workman was working with the management with full

satisfaction to the authorities. Due to Covid-19, the office premises were closed on 21.03.2020 by the order of Chandigarh Administration and after that a curfew was imposed in the city closing all the working offices in Chandigarh. Due to this reason, workman failed to attend the office. The workman received her last salary through bank on 09.04.2020. Thereafter, the workman was told on her mobile phone that Head Office of the company in Mumbai is closed due to Covid-19 and there is no proper intimation from the head office and her salary is not coming from the Head Office. Thereafter, the workman received a message on mobile phone on 09.06.2020, in which it is mentioned that her services are terminated on 31.03.2020. After knowing this the workman rushed to her office in Sector 17 where she met Deepak Sharma, ASM in the office. Deepak Sharma, ASM told the workman that these messages are sent to all the employees in general and you need not worry about it. The workman suspected some foul scene after reading this message and served demand notice under Section 2A to the management and Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. On 08.08.2020, the workman was called to the office of the management where she met Deepak Sharma, ASM who told the workman to sign the resignation letter and said there is no need to put any date for resignation. The workman suspecting something fishy refused to sign the resignation letter and told him that she has already raised the matter before Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh. At this Deepak Sharma, ASM got annoyed from the workman. Even after receiving the notice, the management failed to appear before the Assistant Labour Commissioner, U.T. Chandigarh. Later the workman received a letter from the office of Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh bearing No.3516 dated 24.09.2020 in which the workman was directed by the authorities to approach the appropriate forum for the adjudication of the dispute. The workman is a girl, who worked as honest employee with full devotion putting hard labour in her services. During the period of her employment she was never served with any show-cause notice for any matter and for termination of her employment. Moreover, management stopped paying the salary to the workman without specifying any reason. Prayer is made that workman may be re-appointed with all previous accrued salary and other consequential benefits and the Court may grant any other relief which it deems fit.

3. On notice, the management contested the claim statement by filing written statement dated 25.04.2022/27.04.2022 wherein preliminary objections are raised on the ground that workman is not entitled to any relief as prayed for. It is submitted that workman was employed w.e.f. 09.12.2019 vide appointment letter dated 05.12.2019 as Customer Service Associate at its retail outlet at Chandigarh, as per the terms and conditions mentioned in the letter of appointment. The employment of the workman was on probationary basis for a period of six months and only after the expiry of the probationary period, the workman might be confirmed by the management. Unless and until after the completion of probation period, the employment of the workman is not confirmed in writing by the management, the workman shall not be entitled to claim any benefits being permanent or regular employee and shall remain on probation only. In the present case, the services of the workman were dispensed with during the probation period w.e.f. 31.03.2020 as the performance of the workman was not up to the mark and the workman had never joined her services with the management after lifting of the lock-down w.e.f. 08.05.2020. The management company had called the workman and enquired about her non-attending of the store after lifting of the lock-down. The workman failed to respond and joined her service and expressed her desire to dis-continued with the management company in Sector 17, store due to the reasons best known to her. Mr. Deepak Sharma, ASM had also offered the workman that she can joined at retail store of the management company at V.R. Mall, Mohali. The workman had flatly refused the said offer made by the management company. The workman has abandoned her services voluntarily and the same were never terminated by the management. The management was left with no other option except to send the written communication by way of whatsapp message to the workman on 09.06.2020 that the services of the workman ceased w.e.f. 31.03.2020. The services of the workman were dispensed with before completion of probation period, in accordance with law. The workman has no right to claim re-appointment or any other consequential reliefs. Thus, the claim statement filed by the workman is liable to be dismissed being devoid of merits. It is further submitted that the workman has no right to seek regularization with the management. The services of the workman were purely on probationary basis for the period of six months from the date of appointment. The services of the workman have been dispensed with by the management in terms of conditions of the letter of appointment. The claim statement filed by the workman is neither verified nor supported with any affidavit, as

such, same is liable to be dismissed on this ground as well.

4. Further on merits, it is stated that it is a matter of record that the workman was appointed by the management vide appointment letter dated 05.12.2019 and workman joined on 09.12.2019 as Customer Service Associate in the store. Further similar stand is taken as taken in the preliminary objections. It is, however, stated that the workman has concocted a story only to create false claim and to extort money from the management company. The allegations levelled by the workman are totally wrong. Rest of the contents of the claim statement are denied as wrong and prayer is made that claim statement may be dismissed being devoid of merits, in the interest of justice and principles of equity.

5. Workman filed replication to the written statement wherein contents of the written statement except admitted facts are denied as wrong and averments of claim statement are reiterated.

6. From the pleadings of the parties, following issues were framed vide order dated 17.08.2022 :-

1. Whether the workman is illegally terminated ? OPW
2. If issue No.1 is proved in affirmative, whether the workman is entitled for re-appointment with all previous accrued salary and all other consequential benefits, as prayed for ? OPW
3. Whether the workman has no cause of action and locus standi ? OPM
4. Whether the statement of claim is not maintainable for want of verification ? OPM
5. Relief.

7. In evidence, workman Komal Verma examined herself as AW1 and tendered her affidavit Exhibit 'AW-1/A' along with photocopies of documents Exhibit 'AW-1/1' to Exhibit 'AW-1/6'.

Exhibit 'AW1/1' is letter of appointment dated 05.12.2019 issued by Managing Director for Zodiac Clothing Co. Ltd. to Komal Verma appointing her as Customer Service Associate for their store at Chandigarh Branch w.e.f. 09.12.2019.

Exhibit 'AW1/2' is Annexure enclosed with the appointment letter, incorporating the salary structure (total per month salary Rs.28,610/- and per annum salary Rs.3,43,324/-).

Exhibit 'AW1/3' is Aadhar Card of Komal Verma.

Exhibit 'AW1/4' is a printout of message received on June 9, 14:30 from Mobile Contact No.+ 918104885681. The contents of Exhibit 'AW-1/4' are reproduced as below :-

"Sir,

This is to inform you that your probationary period of employment with us ceased with effect from 31.03.2020.

Best Regards,

*Zodiac Clothing Company Ltd. Mumbai
Tel-66677266"*

Exhibit 'AW1/5' is notice issued by Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh to Zodiac Clothing Company Ltd. at the address of Mumbai as well as Chandigarh relating to the demand notice under Section 2A of the ID Act raised by Komal Verma.

Exhibit 'AW1/6' is failure report of Assistant Labour Commissioner-cum-Conciliation Officer, U.T. Chandigarh bearing Memo No.3516 dated 24.09.2020.

8. Workman examined summoned witness AW2 Deepak Sharma, Retail Coordinator with M/s Zodiac Clothing Co. Ltd. who brought into evidence the documents i.e. Exhibit 'AW-2/1' to Exhibit 'AW-2/5' and Mark 'A'.

Exhibit 'AW2/1' is letter of appointment of Komal Verma. Exhibit 'AW2/2' is structure of salary.

Exhibit 'AW2/3' is application form.

Exhibit 'AW2/4' is salary register form the month of December 2019 to February 2020

Exhibit 'AW2/5' is attendance register from December 2019 to February 2020.

Mark 'A' is hardcopy of e-mail dated 24.06.2020.

9. On 09.10.2023 workman closed her evidence in affirmative.

10. On the other hand, management examined MW1 Ashok Kumar, Senior Customer Service Associate, Retail outlet, SCO No.43, Ground Floor, Sector 17-E, Chandigarh; who tendered his affidavit Exhibit 'MW-1/A'. On 01.12.2023 Learned Representative for the management closed oral evidence. On 03.01.2024 Learned Representative for the management closed documentary evidence.

11. I have heard the arguments of Learned Representatives for the parties and perused the judicial file. My issue-wise finding are as below :-

Issues No. 1 & 2 :

12. Both these issues are taken up together being inter-connected and in order to avoid repetition of discussion.

13. Onus to prove both these issues is on the workman.

14. Under these issues, workman Komal Verma examined herself as AW1 and vide her affidavit Exhibit 'AW1/A' deposed the averments of claim statement in toto which are not reproduced here for the sake of brevity. AW1 supported her oral version with documents Exhibit 'AW1/1' to Exhibit 'AW1/6'.

15. Workman examined AW2 Deepak Sharma, Retail Coordinator with M/s Zodiac Clothing Co. Ltd. deposed that he is a summoned witness. The management does not maintain any personal file of its workers. He has brought the documents i.e. letter of appointment / Exhibit 'AW2/1', structure of salary / Exhibit 'AW2/2', application form / Exhibit 'AW2/3', salary register for the month of December 2019 to February 2020 / Exhibit 'AW2/4', hardcopy of e-mail dated 24.06.2020 / Mark 'A' and attendance register for the month December 2019 to February 2020 / Exhibit 'AW2/5'. He has not brought the salary register and attendance register for the period beyond February 2020 because due to lockdown on account of Covid-19, the workman did not join the retail outlet of the management. As per record the management did not issue any show cause notice, charge-sheet etc. to the workman and no disciplinary proceedings were initiated against the workman. The work and conduct of the workman was not satisfactory. The salary register relates to all the workers including workman who were working in the territory of State Punjab, under him. The salary beyond February 2020 was paid to the other workers whose salary record is maintained in the Head Office.

16. On the other hand, management examined MW1 Ashok Kumar who vide his affidavit Exhibit 'MW-1/A' deposed that he is working with the management as Customer Service Associate w.e.f. 2007 till date and got promoted as Senior Customer Service Associate in 2016 and is posted at Retail outlet, SCO No. 43, Ground Floor, Sector 17-E, Chandigarh. He further deposed that the services of the workman were dispensed with during the probation period w.e.f. 31.03.2020 as the performance of the workman was not up to the mark and the workman had never joined her services with the management after lifting of the lock-down w.e.f. 08.05.2020. The management company had called the workman and inquired about her non-attending of the store after lifting of the lock-down. The workman failed to respond and joined her service and expressed her desire to dis-continued with the management company in Sector 17, store due to the reasons best known to her. Mr. Deepak Sharma, ASM had also offered the workman that she can joined at retail store of the

management company at V.R. Mall, Mohali and the workman had flatly refused the said offer made by the management-company. The workman had abandoned her services voluntarily and the same were never terminated by the management. He further deposed that Mr. Deepak Sharma, ASM had never told the workman to sign any letter, as alleged by the workman. The workman has concocted the entire story only to create a false claim against the management company. The claim filed by the workman is devoid of any merits and is liable to be dismissed.

17. From the oral as well as documentary evidence led by the parties, it comes out that undisputed facts are that workman was appointed as Customer Service Associate by the management vide appointment letter dated 05.12.2019 / Exhibit 'AW1/1' w.e.f. 09.12.2019. The workman joined duty on 09.12.2019 at the Chandigarh store of the management. Due to spread of Covid-19 complete lockdown was imposed in Chandigarh w.e.f. 31.03.2020 and was lifted w.e.f. 08.05.2020. Due to lock-down the workman could not attend the duty at the Chandigarh store of the management.

18. As per the appointment letter, the employment of the workman to the post of Customer Service Associate was on a probationary basis for a period of six months. For confirmation of services there was requirement of written confirmation on satisfactory completion of probation period. In this regard relevant second para of the appointment letter is reproduced as below;

"Your employment in the above mentioned post is on a probationary basis for a period of Six months. However, the same will be continued and confirmed after the expiry of the said period subject to your performance and the achievements in the said period of probation. The communication of your continuation and confirmation after the expiry of the said period of probation will be done in writing. Unless otherwise confirmed in writing on satisfactory completion of your probation period, you shall not be deemed to be permanent."

19. In the present case, it is neither pleaded nor proved by the workman that she satisfactorily completed the probation period of six months and her services were confirmed in writing. AW2 Deepak Sharma, Retail Coordinator with M/s Zodiac Clothing Co. Ltd. examined by the workman when put to cross-examination admitted as correct that workman Komal Verma was on probation period for six months from the date of her joining. AW2 admitted as correct that services of Komal Verma were dispensed with during the probation period. The plea taken by the management that workman did not report on duty even after lifting of lockdown is strengthened from cross-examination of AW2 wherein he has stated that after lockdown workman never reported for duty. Learned Representative for workman argued that after lifting of the lockdown when the workman visited the management to join duty, then Mr. Deepak Sharma, ASM told her to sign on blank paper. The aforesaid argument advanced by Learned Representative for the workman is devoid of merits. MW1 has denied the suggestion as wrong that after lifting of the lockdown when the workman visited the management to join duty, then Mr. Deepak Sharma, ASM told her to sign on blank paper. The suggestion put to a witness, which is denied as wrong, is no evidence unless proved otherwise. In the present case, oral assertion of the workman that she was forced to sign on a blank paper is not acceptable for want of any corroboration. A probationer has no lien on the job. His / her services can be terminated at the discretion of the employer during the probation period. It is not the case of the workman that order of dispensing of her services during her probation period vide communication Exhibit 'AW1/4' is stigmatic in nature. Moreover, the provision of Section 25F of the ID Act is not attracted as the workman has not completed continuous service of 240 days in twelve calendar months preceding the date of termination as required under Section 25B of the I.D. Act. In the present case, even if the period of lockdown w.e.f. 21.03.2020 to 08.05.2020 and the period up to the issuance of the termination order (SMS sent on 09.06.2020 vide Exhibit 'AW1/4') is considered as service period, in that situation also the workman failed to fulfil the requirement of Section 25B of the ID Act. In this

manner, workman does not fall within the definition of continuous service as defined in Section 25B of the ID Act. The judgment referred by Learned Representative for the management reported in **1997 (11) SCC 521** titled as **Escorts Ltd. Versus Presiding Officer** is applicable to the facts of the present case to an extent. Termination of services of a probationer during probation period on the ground that performance of the workman was not up to the mark, is not retrenchment within a meaning of Section 2(oo)(bb) of the ID Act. The judgment of Hon'ble Supreme Court reported in **AIR 1993 SC 392** titled as **The Governing Counsel of Kidwai Memorial Institute of Oncology, Bangalore Versus Dr. Pandurang Godwalkar** referred by Learned Representative for the management is applicable to the facts of the present case wherein it has been observed that if the performance of the employee concerned during the period of probation is not found to be satisfactory on overall assessment, then it is open to the competent authority to terminate his services.

20. In view of the order dated 12.06.2020 of Hon'ble Supreme Court in **Writ Petition (C) diary No. 10983 of 2020** titled as **FICUS PAX Private Ltd. & Others Versus Union of India & Others**, the management is bound to pay wages to the workman for the period of lockdown. Accordingly, the workman may effect recovery of un-paid dues for the period w.e.f. 31.03.2020 to 08.05.2020 by filing separate application under Section 33C of the ID Act.

21. Accordingly, both these issues are decided against the workman and in favour of the management.

Issue No. 3 :

22. Onus to prove this issue is on the management.

23. As already discussed in the joined discussion of Issues No.1 & 2 since the workman has failed to prove continuous service as required under Section 25B of the I.D. Act, therefore, the management was not required to comply with the provisions of 25F of the ID Act. Thus, workman has neither any cause of action nor any locus-standi to seek re-appointment with consequential benefits.

24. Accordingly, this issue is decided in favour of the management and against the workman.

Issue No. 4 :

25. Onus to prove this issue is on the management.

26. The argument raised by Learned Representative for the management that the claim statement is liable to be dismissed for want of verification clause is devoid of merits as under the ID Act it is not mandatory to sign verification clause.

27. Accordingly, this issue is decided against the management and in favour of the workman.

Relief :

28. In the view of foregoing finding on the issues No.1 to 3 above, this industrial dispute is declined. Appropriate Government be informed. File be consigned to the record room.

Dated : 03.01.2024.

(Sd.) . . . ,
(JAGDEEP KAUR VIRK)
PRESIDING OFFICER,
Industrial Tribunal & Labour Court,
Union Territory, Chandigarh.
UID No. PB0152.

CHANDIGARH ADMINISTRATION
LABOUR DEPARTMENT

Notification

The 18th March 2024

No. 13/1/9979-HII(2)-2024/4472.—In exercise of the Powers conferred by sub-section (i) of Section 17 of the Industrial Disputes Act, 1947 (Central Act No. 14 of 1947) read with Government of India, Ministry of Labour & Employment's Notification No. S-11025/21/2003-IR(PL) dated 28.7.2004, the undersigned hereby publish the following award bearing reference No. **60/2023** dated **27.02.2024** delivered by the Presiding Officer, Industrial Tribunal-cum-Labour Court, UT Chandigarh between :

GURPREET SINGH, S/O SH. AJMER SINGH, R/O H.NO.50, WARD NO.7, GURDEV NAGAR SIRHIND, DISTT. FATEHGARH SAHIB. (Workman)

AND

1. D.B. CORPORATION LTD., PLOT NO.280, SARKHEJ-GHANDINAGAR HIGHWAY, NEAR YMCA CLUB, MAKARBA, AHMEDABAD, GUJRAT -38005 THROUGH ITS MANAGING DIRECTOR.
2. DAINIK BHASKAR NEWSPAPER, D.B. CORP. LTD. CHANDIGARH UNIT, PLOT NO.11-12, GROUND FLOOR, DAKSHIN MARG, SECTOR 25, CHANDIGARH - 160036 THROUGH ITS CHIEF EXECUTIVE.
3. DAINIK BHASKAR NEWSPAPER, D.B. CORP. LTD., MANDI GOBINDGAR THROUGH ITS MANAGER. (Management)

AWARD

1. Vide Endorsement No.13/1/9979-HII(2)-2023/9830-A Dated 12.07.2023 the Secretary Labour, Chandigarh Administration has referred the dispute to this Court / Tribunal on the claim application filed by Gurpreet Singh (*here-in-after referred "workman"*) to D. B. Corporation Ltd. & Others (*here-in-after referred "management"*) under Section 17(2) of the Working Journalists & Other Newspaper Employees (Condition of Service) and Miscellaneous Provisions Act, 1955 (*here-in-after in short referred "Act 1955"*) in following words :-

"Whether the arrears of revision of pay to Sh. Gurpreet Singh, S/o Sh. Ajmer Singh resident of H.No.50, Ward No.7, Gurdev Nagar, Sirhind, Distt. Fatehgarh Sahib (Claimant) AND 1. D.B. Corporation Ltd. Plot no.280, Sarkhej-Gandhinagar Highway, Near YMCA Club, Makarba, , Ahmedabad 38005 through its managing director 2. Dainik Bhaskar Newspaper, D.B. Corp. Ltd. Chandigarh Unit, Plot No.11-12, Ground Floor, Dakshin Marg, Sector 25, Chandigarh-160036 through its Chief Executive 3. Dainik Bhaskar Newspaper, D.B. Corp. Ltd. Mandi Gobindgar through its Manager (Respondents) according to the recommendations of the Majithia Wage Board and also as per the direction of the Hon'ble Supreme Court of India under The Working Journalists And Other Newspaper Employees (Conditions of Service) And Miscellaneous Provision Act, 1955 and in compliance of the orders dated 28.04.2015, 12.01.2016, 14.03.2016, 23.08.2016 passed by the Hon'ble Supreme Court of India in CCP No.128/2015 and 129/2015 AND WP (Civil) 246/2011 dated 07.02.2014; if so, to what effect and to what relief he is entitled to, if any ?"

2. Upon notice, the workman appeared in person and thereafter through his Representative.

3. Briefly stated the averments of claim statement are that claimant (*here-in-after "workman"*) was working as Clerk with Dainik Bhaskar Newspaper having its registered office at Sector 25, Chandigarh. On account of revision of pay & other allowances, accrued on acceptance of the recommendations of the Majithia Wage Board, which was accepted by the Government of India and notified in the Gazette of Govt. of India on 11.11.2011, a substantial amount is due from Dainik Bhaskar, which is denied. The matter is referred to this Hon'ble Court for adjudication of dispute in terms of Section 17(2) of the Act 1955. On the publication of the recommendations of the Majithia Wage Board vide gazette notification dated 11.11.2011, various newspaper

establishments and media houses filed Writ Petition (C) No.538 of 2011 whereby challenged the notification dated 11.11.2011 issued by the Union of India and Act 1955 under Article 32 of the Constitution of India before the Hon'ble Supreme Court of India alleging that it infringes the fundamental rights guaranteed under Article 14, 19 (1) (a) and 19(1)(g) of the Constitution of India. The bunch of the aforesaid petitions were dismissed by the Hon'ble Supreme Court vide its judgment dated 07.02.2014, holding that the recommendations of the Majithia Wage Board are valid in law, based on genuine and acceptable consideration and there is no valid ground for interference under Article 32 of the Constitution of India. Despite the dismissal of the writ petitions, no compliance was being made by the news agencies. The employees had also taken up their issue before the management No.1 & 2 for payment of revised wages and arrears as per the directions of the Hon'ble Apex Court, however, they were told that a review application have been preferred by them and further course of action would be taken after its adjudication. Vide order dated 13.10.2017 Hon'ble Apex Court clarified the previous judgment dated 19.06.2017 to the extent that the disputes referred for adjudication under Section 17(2) of the Act 1955 will be disposed off by the concerned Labour Court / Industrial Tribunal as expeditiously as possible, preferably within six months of the reference being made.

4. It is further averred that the workman was appointed as Helper with the Dainik Bhaskar Newspaper at Sirhind on 01.07.2008. The salary of the workman was fixed @ ₹ 3,613/- per month including all perks and allowances. Initially workman was on probation for 6 months and later on his services were regularised. The workman further promoted as Unit Attendant in the year 2010 and then promoted as Clerk in July 2013 and his last paid salary was ₹ 16,728/-. The work & conduct of the workman has been further appreciated in as much as the service record of the workman has been exemplary good as no complaint whatsoever has ever been reported to the management from any quarter. The workman has been earning his annual increments well on time apart from the annual bonus. The services of the workman were regulated under the Act 1955. The workman being a Helper, Unit Attendant and Clerk falls within the ambit of Group 6 Factory Staff of Schedule III (Grouping of non-journalist newspaper employees - Factory Staff). As per Section III of the recommendations pertaining to revised scales of wages and allowances, it is mentioned at Clause 20(f) that every employee shall be entitled for three promotions during his service carrier i.e. the 1st to next higher grade after 10 years, the 2nd after 12 years and 3rd after 30 years of satisfactory service. Despite passage of more than 11 years of satisfactory service, no up benefit of Assured Career Development has been given. Thus, the workman is entitled for benefit of 1st promotion w.e.f. 01.04.2020 on completion of 10 years of service. The request of the workman and others was kept pending on the ground that the matter was being considered by the management and would take a decision expeditiously. Despite passage of more than 4 years of dismissal of writ petitions by the Hon'ble Apex Court, no payment was made except lame excuses given by the management. In April, 2019 the workman along with other employees had also been cautioned by the management that in case they press upon their demand of recovery of dues then they would either be transferred at other far distant places or their services would be terminated. Despite above the workman had been pressing his request of payment of arrears of salary as per the Majithia Wage Board Recommendations upon the management No.2, however, the management No.2 started harassing the workman on one pretext or the other. Still the workman had been continuously discharging his duties till date and ultimately, the workman has left the job under compelled circumstances and is now jobless. The workman is only bread winner of his family and as such the entire family has been depending upon the legitimate salary and arrears of the workman, which is to be paid by the managements. The amount which is liable to be recovered from the management based on revised pay on the basis of Majithia Wage Board are the legitimate dues of the workman and as such the workman is not willing to forego the same in any manner. The workman has got calculated his estimate revised salary and arrears of pay from a competent Chartered Accountant as per the Majithia Wage Board Recommendations w.e.f. 11.11.2011 to 01.12.2022 and as such the total amount of ₹1,36,70,363/- including interest at the rate of 18% per annum is due from the management. Despite the demand of arrears of salary for the period w.e.f. 11.11.2011 to 01.12.2022, the management has intentionally and deliberately not been implementing the recommendations of the Majithia Wage Board and has not given any benefit to the workman in spite of several oral and written requests. The workman has not signed any declaration / settlement with any of the managements whatsoever in order to waive off the benefits accrued under the Majithia Wage Board recommendations. The management had indulged in the process of denying the claims stating that the recommendations of the Majithia Wage Board are not applicable to the workman and other employees and forcing the employees to sign on pre-typed formats and declarations illegally. The employees refusing to do so were being victimised by way of illegal transfer, suspension and other colourable exercise of the powers of the management and a reign of terror inside the establishment had been created by the management.

The workman put forth his claim to the managements by giving demand notice dated 03.02.2023 through registered post requesting to release the wages and arrears which are withheld by the managements wrongly and illegally but no action has been taken so far. The management may be asked to furnish the details of salaries paid to the employees of the establishment before 07.02.2014 and being paid now and for non-implementation of the Majithia Wage Board by the management. The present claim is without prejudice to the rights of the workman to Contempt of Court proceedings against the management for its deliberate willful and intentional violation of orders dated 07.02.2014 of Hon'ble Supreme Court. The cause of action is continuous as on every day, on being drawing less salary, than the entitlement, a fresh cause of action is being arisen and as such the present claim is being filed within its period of limitation. The workman has not filed any other claim or petition before any Court of Law except the present one. Prayer is made that award may be passed directing the management to implement the Majithia Wage Board recommendations and re-fix the pay of the workman accordingly. The managements may be further directed to release arrears of pay to the tune of ₹1,36,70,363/- as per Annexure 'A' with costs and to pay interest @18% on the arrears of pay from the date of its accrual till actual payment. Besides, any other order / direction as may deem fit and proper to this Hon'ble Court may be granted in favour of the workman and against the management.

5. On notice, Ms. Jasleen Kaur - Deputy Manager (Legal - F&A) appeared on behalf of the managements No.1 to 3 on 09.08.2023 and placed on record copy of Board Resolution dated 07.12.2022 passed by Executive Committee of the Board of Directors. Thereafter, on 04.09.2023 Shri Avdhesh Gaur - Assistant Manager HR filed authority letter on behalf of managements No.1 to 3. The managements did not file written statement despite availing repeated opportunities. On 05.10.2023 none appeared on behalf of the management and vide order dated 05.10.2023 management was proceeded against ex-parte.

6. In *ex-parte* evidence, the workman Gurpreet Singh examined himself as AW1 and tendered into evidence his affidavit Exhibit 'AW1/A' along with documents Exhibit 'W1' to Exhibit 'W6'.

Exhibit 'W1' (colly.) is original revised CTC for the month of April 2010, 25.04.2011, 25.05.2012, 29.07.2013, 28.05.2014 accompanied with revised CTC structure w.e.f. 01.04.2014; annual appraisal for the Financial Year 2014-15 accompanied with Annexure-A; annual appraisal for the Financial Year 2015-16 accompanied with Annexure-A - compensation details; annual appraisal for the Financial Year 2016-17 accompanied with Annexure-A - compensation details; annual appraisal for the Financial Year 2017-18 accompanied with Annexure-A - compensation details; annual appraisal for the Financial Year 2018-19 accompanied with Annexure-A - compensation details; annual appraisal for the Financial Year 2020-21 accompanied with Annexure-A - compensation details; annual appraisal for the Financial Year 2021-22 accompanied with Annexure-A - compensation details.

Exhibit 'W2' is copy of gazette notification dated 11.11.2011 of Government of India, Ministry of Labour & Employment.

Exhibit 'W3' is original calculation report of C.A. Dhruv Gupta accompanied with detail of calculation of estimated gross-salary as per the Majithia Wage Board.

Exhibit 'W4' is office copy of demand notice dated 03.02.2023.

Exhibit 'W5' is attested copy of failure report bearing Memo No. ST/2023/1558 dated 06.06.2023 of Assistant Labour Commissioner, U.T, Chandigarh.

Exhibit 'W6' is personal copy of reference order of Secretary Labour, Chandigarh Administration bearing endorsement No. 9832 dated 12.07.2023.

7. In order to prove the calculation sheet of estimated gross salary / wages as per the Majithia Wage Board, workman examined AW2 Dhruv Gupta - Chartered Accountant, who tendered his affidavit vide Exhibit 'AW2/A'.

8. On 13.02.2024 Learned Representative for the workman closed oral evidence and on 23.02.2024 closed documentary evidence.

9. I have heard arguments of Learned Representative for the workman and perused the judicial file.

10. In order to prove its claim, the workman Gurpreet Singh examined himself as his own witness as

AW1 and vide his affidavit Exhibit 'AW1/A' deposed all the material averments of claim statement which are not reproduced here to avoid repetition. AW1 supported his oral version without documents Exhibit 'W1' to Exhibit 'W6'.

11. AW2 Dhruv Gupta - Chartered Accountant vide his Exhibit 'AW2/A' proved the calculations as detailed in Exhibit 'W3'.

12. From the oral as well as documentary evidence led by the workman it is duly proved on record that the workman joined Helper with the Dainik Bhaskar Newspaper at Sirhind on 01.07.2008 at salary of ₹ 3,613/- per month. The workman was re-designated as Unit Attendant in the year 2010 and further re-designated as Clerk in July, 2013. The salary of the workman was enhanced from time to time as per CTC structure Exhibit 'W1'. The workman resigned from service on 01.12.2022. The last drawn monthly salary of the workman was ₹ 16,728/-. The grievance of the workman is that on notification of Majithia Wage Board Recommendations in the Gazette of Govt. of India, Ministry of Labour & Employment, on 11.11.2011, he is entitled to revised wages but despite repeated requests made by the workman, the managements did not bother to pay the revised wages. In this manner, the management has violated the Majithia Wage Board recommendations dated 11.11.2011 and judgment dated 07.02.2014 passed by the Hon'ble Supreme Court in Writ Petition (C) No.538 of 2011. The workman in para 17 of the claim statement and para 13 of his affidavit Exhibit 'AW1/A' categorically stated that he has not signed any declaration / settlement with the respondents whatsoever in order to waive off the benefits accrued under the Majithia Wage Board Recommendations. The post of Helper, Unit Attendant and Clerk falls within the ambit of Group 6 Factory Staff of the Schedule - III of the recommendations (Grouping of Non-journalists Newspaper Employees - Factory Staff). On denial of arrears of salary as per the Majithia Wage Board recommendations, the workman raised claim application under Section 17(2) of the Act 1955 before the Assistant Labour Commissioner, U.T. Chandigarh on 09.03.2023 and the Worthy Secretary Labour, Chandigarh Administration under Section 17(2) of the Act 1955 referred to present dispute for adjudication to this Tribunal / Court vide reference bearing endorsement dated 12.07.2023.

13. The evidence led by the workman has gone un-rebutted and unchallenged as the management No.1 to 3 despite appearance through their authorised Representatives did not bother to contest the claim statement and preferred to be proceeded against ex-parte. There is no reason to disbelieve the evidence led by the workman. The denial of arrears of wages is recurring cause of action and the bar of limitation does not apply.

14. In view of the discussion made above, the workman is entitled to the wages for the period from 11.11.2011 to 01.12.2022 as per the Majithia Wage Board recommendations after deduction of wages drawn by him during the above said period. Accordingly, the present reference is ex-parte allowed and answered in favour of the workman to the effect that the workman is held entitled to the wages for the period from 11.11.2011 to 01.12.2022 as per the Majithia Wage Board recommendations after deduction of wages drawn by him during the above said period. The management is directed to comply with the award within three months from the date of publication of the same in Government Gazette failing which the management is liable to pay interest at the rate 8% per annum on the amount of consequential benefits from the date of this award till its actual realisation. Appropriate Government be informed. Copy of this award be also sent to Learned District Judge, Chandigarh in view of Sub-section 10 of Section 11 of the Industrial Disputes (Amendment) Act, 2010 for onward transmission of the same to concerned Civil Court. File be consigned to the record room.

(Sd.) . . . ,

(JAGDEEP KAUR VIRK)

PRESIDING OFFICER,

Industrial Tribunal & Labour Court,

Union Territory, Chandigarh.

UID No. PB0152.

Dated : 27.02.2024.

Secretary Labour,
Chandigarh Administration.

CHANGE OF NAME

I, Amritpal Singh, S/o Gurmit Singh, R/o House No. 3116, Sector 45-D, Chandigarh, changed my minor Son Name from Gurmaan Singh to George Gurmaan Singh.

[404-1]

I, Sunny, S/o Sh. Guddu Singh, R/o H. No. 972, B.M.K. Jattan Wala Mohalla, Mata Raj Kaur Gurdwara, Sector-13, Manimajra, Chandigarh, declare that I have changed my name from Sunny to Sunny Rathore.

[405-1]

I, Naina, W/o Ratesh Kumar, House No. 5715, Maloya Colony, Chandigarh, have changed my minor daughter name from Drishti to Aradhya.

[406-1]

I, Sahana *Alias* Shahana, W/o Abdul Hamid, R/o House No. 708, Gali No. 13, Village-Daria, Chandigarh. That I have changed my name from Sahana *Alias* Shahana to Nabunnisha.

[407-1]

I, Geeta, W/o Suresh, R/o House No. 110, Village Faidan Nizampur, Chandigarh, have changed my name from Geeta to Susheela Devi.

[408-1]

I, Davinder Kaur, W/o Shri Bhupinder Singh, R/o H. No. 151, Sector 41-D, Badheri, U.T., Chandigarh, have changed my name to Devinder Kaur.

[409-1]

I, Shubra, D/o Kamrudeen Ansari, R/o House No. 648, Charan Singh Colony, Mauli Jagran, Chandigarh, have changed my name from Shubra to Subra.

[410-1]

I, Amrita, Sekhon, D/o Shri B.S. Sekhon, W/o Parminder Singh, R/o # 1841, Sector 22-B, Chandigarh, have changed my name from Amrita Sekhon to Amrita Kaur.

[411-1]

I, Akhilesh Kumar, S/o Daya Shankar, # 419, Bapu Dham Colony, Sector 26, Chandigarh, have changed the name of my minor daughter from Khushaboo to Khushboo.

[412-1]

I, Dharmender Sharma, S/o Jia Lal Sharma, # 2136, Pipliwala Town, Manimajra, Chandigarh, have changed my name to Dharmender Kumar Sharma.

[413-1]

I, Hukam Chand Kamboj, S/o Pathana Ram, R/o House No. 5320/1, Modern Housing Complex Manimajra, Chandigarh, have changed my name from Hukam Chand Kamboj to Hukam Chand.

[414-1]

I, Sanjay Mishra, S/o Chand Kishore Mishra, # 3352, Sector 27-D, Chandigarh, have changed the name of my minor son from Cheyone Mishra to Aaryav Mishra.

[415-1]

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